

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

MICHAEL HOLBROOK,

Plaintiff,

v.

THANH T. DUONG, ET AL.,

Defendants.

Case No.: 10-CV-05414-PSG

**ORDER GRANTING DEFENDANTS  
YANG H. PAE AND YONG S. PAE'S  
MOTION FOR SUMMARY  
JUDGMENT**

**(Re: Docket No. 44)**

Defendants Yang H. Pae and Young S. Pae (the "Pae Defendants") seek summary judgment in this action for injunctive relief under Title III of the Americans with Disability Act ("ADA") and for additional relief under related state-law claims.<sup>1</sup> The court elects to rule on the Pae Defendants' motion without a hearing pursuant to Civ. L.R. 7-1(b).


The Pae Defendants' principal argument is that Plaintiff Michael Holbrook's ("Holbrook") ADA claims were mooted when Defendant Thanh T. Duong ("Duong") closed the gas station that was the subject of the ADA action. The Pae Defendants further argue that this court should decline to exercise supplemental jurisdiction over the remaining state law claims. Holbrook concedes that the ADA claims are now moot, but requests that the court retain supplemental jurisdiction over the state law claims as a matter of discretion.

<sup>1</sup> See Docket No. 44.

The court agrees with the parties that Holbrook's ADA claims are now moot. Summary judgment in favor of Defendants on the ADA claims is GRANTED. As for the related state-law claims, given the absence of any available relief under federal law, the court in its discretion declines to exercise supplemental jurisdiction pursuant to 28 U.S.C. S 1367(c)(3).<sup>2</sup> These claims are dismissed without prejudice to refile in state court, where the court notes that attorneys' fees are available to the plaintiff or a substituted party to mitigate the inconvenience of litigation in another forum.<sup>3</sup>

**IT IS SO ORDERED.**

Dated: 2/29/2012



PAUL S. GREWAL  
United States Magistrate Judge

<sup>2</sup> See *City of Conlon v. American Promotional Events, Inc.-West*, 614 F.3d 998, 1008 (9th Cir. 2010).

<sup>3</sup> See *Pickern v. Stanton's Restaurant & Woodsman Room*, Case No. C 01-2112 SI, 2002 WL 143817, at \*3 (N.D. Cal. Jan. 29, 2002).